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CIVIL RIGHTS ACT 42 U.S.C. §§ 1983

NORTHERN DISTRICT OF CALIFORNIA

**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT**Name Payne Kevin L.

(Last)

(First)

(Initial)

Prisoner Number F-70974Institutional Address SAN Quentin State Prison, SAN Quentin, CA 94974**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**Kevin Payne

(Enter the full name of plaintiff in this action.)

vs.

Michael Healy of O.P.DSgt. Mullis of O.P.DChief Wayne Tucker of O.P.DDoes I-X

(Enter the full name of the defendant(s) in this action)

Case No. C08-1786 WHA(PR)  
(To be provided by the Clerk of Court)**COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
Title 42 U.S.C § 1983**Amended Complaint**[All questions on this complaint form must be answered in order for your action to proceed.]****1. Exhaustion of Administrative Remedies.****[Note:** You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]A. Place of present confinement S.Q.S.P. SAN Quentin, CA 94974

B. Is there a grievance procedure in this institution?

YES  NO 

C. Did you present the facts in your complaint for review through the grievance procedure?

YES  NO 

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

1 1. Informal appeal N/A

2

3

4 2. First formal level N/A

5

6

7 3. Second formal level N/A

8

9

10 4. Third formal level N/A

11

12

13 E. Is the last level to which you appealed the highest level of appeal available to  
14 you?

15 YES ( ) NO N

16 F. If you did not present your claim for review through the grievance procedure,  
17 explain why. N/A

18

19

20 II. Parties.

21 A. Write your name and your present address. Do the same for additional plaintiffs,  
22 if any.

23 Kevin Lamont Payne

24

25

26 B. Write the full name of each defendant, his or her official position, and his or her  
27 place of employment.

28 Mike Healy, O.P.D Officer, SGT. Mullix O.P.D, WAYNE

1 Tucker, Oakland Police Chief for O.P.D.  
2  
3  
4

5 III. Statement of Claim.

6 State here as briefly as possible the facts of your case. Be sure to describe how each  
7 defendant is involved and to include dates, when possible. Do not give any legal arguments or  
8 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a  
9 separate numbered paragraph.

10 On October 25, 2005 Oakland Police Officer Mike Healy, shot Plaintiff  
11 three times, once in abdomen and once in both legs. Plaintiff was unarmed.  
12 At this time, I claim that officer Healy used excessive force therefore  
13 violating my Fourth and Eighth Amendment rights. Sergeant Mullix  
14 is to be held responsible for negligent training and supervising.  
15 Chief of Police Wayne Tucker acted negligently as well by retaining an  
16 officer who after a pitches motion has plainly shown that this officer  
17 Healy has acted recklessly and maliciously in the act of duty before.

18  
19  
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22  
23 IV. Relief.

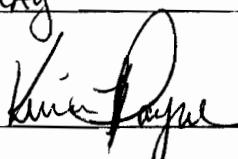
24 Your complaint cannot go forward unless you request specific relief. State briefly exactly  
25 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

26 In acting as described herein above, defendants acted despicably  
27 knowingly, willfully and maliciously, or with reckless or callous  
28 disregard for plaintiffs federally protected rights, entitling plaintiff

1 AN Award of exemplary and punitive damages.  
2  
3  
4

5 I declare under penalty of perjury that the foregoing is true and correct.  
6

7 Signed this 7th day of May, 20 08  
8



9  
10 (Plaintiff's signature)

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

10 Kevin PAYNE Plaintiff,  
11 vs.  
12 Mike Healy, Sergeant Mullix  
13 Wayne Tucker of O.P.D. Defendant.  
14  
15

CASE NO. CO8-1786 WWA(PR)

**PRISONER'S  
APPLICATION TO PROCEED  
IN FORMA PAUPERIS**

15  
16 I, Kevin Payne, declare, under penalty of perjury that I am the  
17 plaintiff in the above entitled case and that the information I offer throughout this application  
18 is true and correct. I offer this application in support of my request to proceed without being  
19 required to prepay the full amount of fees, costs or give security. I state that because of my  
20 poverty I am unable to pay the costs of this action or give security, and that I believe that I am  
21 entitled to relief.

22 In support of this application, I provide the following information:

23 1. Are you presently employed? Yes        No ✓

24 If your answer is "yes," state both your gross and net salary or wages per month, and give the  
25 name and address of your employer:

26 Gross: N/A Net: N/A

27 | Employer: N/A

If the answer is "no," state the date of last employment and the amount of the gross and net salary and wages per month which you received. (If you are imprisoned, specify the last place of employment prior to imprisonment.)

4 TACTICAL TELEVISIONS, SAN FRANCISCO, CALIFORNIA.  
5 From Oct. 2001 until Feb. of 2003. UNSURE.

7 2. Have you received, within the past twelve (12) months, any money from any of the  
8 following sources:

13 c. Rent payments? Yes  No  ✓  
14 d. Pensions, annuities, or Yes  No  ✓

15 life insurance payments?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount  
20 received from each.

21 W/A

22 \_\_\_\_\_

23 5. Are you married? Yes  No

24 Spouse's Full Name: Edna Mae Dowd

25 Spouse's Place of Employment: N/A

26 Spouse's Monthly Salary, Wages or Income:

28 4. a. List amount you contribute to your spouse's support: \$ 9

1           b. List the persons other than your spouse who are dependent upon you for  
 2           support and indicate how much you contribute toward their support. (NOTE:  
 3           For minor children, list only their initials and ages. DO NOT INCLUDE  
 4           THEIR NAMES.).

5           K.L.P. And E.P. K.P.

6

7       5. Do you own or are you buying a home? Yes       No ✓

8       Estimated Market Value: \$        Amount of Mortgage: \$       

9       6. Do you own an automobile? Yes       No ✓

10      Make        Year        Model       

11      Is it financed? Yes       No       If so, Total due: \$       

12      Monthly Payment: \$       

13      7. Do you have a bank account? Yes       No ✓ (Do not include account numbers.)

14      Name(s) and address(es) of bank:       

15

16      Present balance(s): \$ N/A

17      Do you own any cash? Yes       No ✓ Amount: \$       

18      Do you have any other assets? (If "yes," provide a description of each asset and its estimated  
 19      market value.) Yes       No ✓

20

21      8. What are your monthly expenses?

22      Rent: \$ N/A Utilities: N/A

23      Food: \$ N/A Clothing: N/A

24      Charge Accounts:

Name of Account	Monthly Payment	Total Owed on This Acct.
<u>N/A</u>	\$ <u>      </u>	\$ <u>      </u>
<u>N/A</u>	\$ <u>      </u>	\$ <u>      </u>
<u>N/A</u>	\$ <u>      </u>	\$ <u>      </u>

1 9. Do you have any other debts? (List current obligations, indicating amounts and to  
2 whom they are payable. Do not include account numbers.)

3 N/A

4

5 10. Does the complaint which you are seeking to file raise claims that have been presented  
6 in other lawsuits? Yes        No       

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in  
8 which they were filed.

9 N/A

10

11 I consent to prison officials withdrawing from my trust account and paying to the court  
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and  
14 understand that a false statement herein may result in the dismissal of my claims.

15

16 5-7-08

17 DATE

SIGNATURE OF APPLICANT

Kevin Payne

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25  
26  
27  
28



Clerk of the United States District Court  
for Northern District of Calif.  
450 Golden Gate Avenue, Box 36000  
San Francisco, CA 94102  
94964

5/12/2008 10:02 AM



Kevin L Payne Sr.  
10974  
S.Q.S.P.  
San Quentin, CA